

**Community Preservation
Committee**

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9636
Fax (978) 264-9630
cpc@acton-ma.gov
www.acton-ma.gov

April 20, 2006

Mr. William L. Ryan
Superintendent
Acton Public Schools
16 Charter Road
Acton, MA 01720

Re: 2006 CPA Project Funding – Gates School Playground

Dear Mr. Ryan:

Congratulations to the Acton Public Schools and the Gates School PTO on being a recipient of 2006 Community Preservation funds (CPA funds). Your effort and cooperation during this year's project selection process helped secure the overwhelming support at the Annual Town Meeting for the Community Preservation Committee's (CPC) spending recommendations. Voters agreed that each project is worthwhile and now they expect that each will be well executed. Before you move forward with the project, please pay close attention to the following important instructions and funding conditions:

- The Town contact person assigned to your project is John Murray, Assistant Town Manager. All necessary documentation and communication with the Town regarding this project shall be directed to him.
- CPA funding for your project is available immediately following the release date of this letter, however:
- CPA funds shall be disbursed to the Acton Public Schools after project completion to your satisfaction and consistent with the project scope presented in your funding application, and after:
 - a) receipt by the Town contact person of an invoice by you for payment (or reimbursement) for completed services, including all back-up documentation and invoices for the entire project by the contractor(s) who performed the work;

b) verification that all applicable state purchasing and ethics regulations, local bylaws, and Town financial policies have been met;

c) the assigned staff person has verified that the conditions of this award letter have been met;

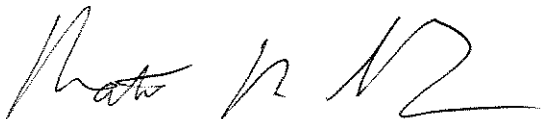
d) receipt by the Town contact person of proof that at least \$22,000 of non-CPA funding has been expended on the project;

e) receipt by the Town contact person of a signed agreement in the form attached hereto between the Acton Public School Department and the Town of Acton, which provides for the Acton Public Schools to budget the necessary funds and staffing resources to properly maintain, clean, and keep in usable and safe condition the new playground for an expected normal lifetime of not less than 20 years, and which further provides that the Acton Public Schools will allow the general public access to and use of the new playground, free of charge, outside of school hours and class recess times.

- Payments will be made for the amount invoiced by the contractor(s), less the amount of non-CPA funding, up to \$16,000.
- Funds cannot be released until the Board of Selectmen has signed the Accounts Payable Warrant at a public meeting.
- As a public entity, the Acton Public Schools are responsible to ensure that the procurements of goods and services for CPA funded projects, including procurements that are partially funded with monies donated by private entities towards the project, will abide by all applicable State and municipal requirements, including the applicable State procurement laws. They require certain procedures for expenses of \$5,000.00 or more, including a requirement that certain State funded projects are done with a specified minimum participation level by minority- and women-owned businesses. Please contact your legal counsel for any questions in this regard.
- Any significant changes to the project from what you represented in your application and during the project selection process shall require CPC approval. Please contact Roland Bartl, Town Planner (978-264-9636; rbartl@acton-ma.gov) to help determine what change is significant, and if necessary to schedule an appointment with the CPC.
- Upon full completion of the project, you must certify completion in writing to the assigned staff person and Roland Bartl, Town Planner. Once he receives your certification, your project account will be closed and no further funds shall be available for this project.
- Any CPA funds awarded to this project and not used upon project completion will be returned to the general CPA fund of the Town and made available for future appropriation by Town Meeting for other projects.
- Good publicity for your project is very important. It is exciting for Acton citizens to know where their CPA funds are being spent. It is also essential that the CPA remains strong at the State level. Therefore, the CPC asks that you make every effort to credit the source of this funding in promotional materials and with signs at the project location stating **"This project has been generously supported by the Town of Acton Community Preservation Fund."** If possible, submit a letter to the Beacon detailing how the funds have benefited your project.

The Community Preservation Committee would appreciate a notice when work on the project has commenced, periodic updates concerning the progress of your project, and especially upon completion. For updates or general questions please contact the CPC via email - cpc@acton-ma.gov, or by calling the Planning Department at (978) 264-9636. Thank you for working in partnership with the CPC to make a significant and lasting difference in our Town.

Sincerely,



Matt Lundberg
Chair
Community Preservation Committee

cc: Board of Selectmen
Conservation Commission
Historical Commission
Planning Board
Acton Housing Authority
Christine Fenniman, Gates School PTO, 75 Spruce Street, Acton, MA 01720
John Murray, Assistant Town Manager
Karen Kukala, Assistant Finance Director

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AGREEMENT

This Agreement is entered into on this ____ day of _____, 2006, by and between the **ACTON PUBLIC SCHOOL DEPARTMENT**, having its principal office at 16 Charter Road, Acton MA 01720 (the "Schools") and the **TOWN OF ACTON**, a municipal corporation, having its principal office at Town Hall, 472 Main Street, Acton MA 01720 (the "Town").

WHEREAS, the Acton Community Preservation Committee has recommended, and the Acton Town Meeting has approved, a grant in the amount of up to \$16,000 to the Schools toward the construction of the Gates School Playground, subject to conditions as set forth in an award letter attached hereto.

WHEREAS, the Schools have accepted that grant subject to those conditions.

WHEREAS, the Gates School Playground will have a normal expected life of not less than 20 years from the date of completion of construction (the "Useful Life").

NOW, THEREFORE, for adequate consideration the receipt and sufficiency of which are hereby acknowledged, the undersigned parties agree as follows:

1. **Term**

The Term of this Agreement shall be 20 years from its execution by all parties hereto.

2. **Maintenance Condition**

During the Term of this Agreement and subject to appropriation of funds for such purpose, the Schools shall perform all actions necessary to operate, maintain, patrol, inspect, and repair Gates School Playground in a safe playing condition, reasonable wear and tear excepted, throughout the Useful Life of the equipment (the "Maintenance Condition"). The Schools shall budget the necessary funds and staffing resources to satisfy the Maintenance Condition throughout its Term.

3. **Use of the Gates School Playground**

During the Term of this Agreement, the Schools shall make the Gates School Playground available to Town residents and the general public, free of charge, outside of school hours and class recess times

4. **Sovereign Immunity**

It is expressly understood and agreed, and all users of the Gates School Playground shall be on notice that the Schools and the Town have sovereign immunity and statutory immunity as provided under Massachusetts law with respect to any use of the Gates School Playground and ancillary School property such as access ways, the parking areas and the like.

IN WITNESS WHEREOF, the parties have executed this Agreement of the day and year first above written.

Acton Public School Department

William Ryan, Superintendent

ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this ____ day of _____, 2006, before me, the undersigned Notary Public, personally appeared William Ryan, Superintendent of the Acton Public School Department, proved to me through satisfactory evidence of identification, namely my personal knowledge to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose as the foregoing Superintendent of the Acton Public School Department.

_____(official signature and seal of notary)
My commission expires _____

Town of Acton

Don P. Johnson, Town Manager

ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this ____ day of _____, 2006, before me, the undersigned Notary Public, personally appeared Don P. Johnson, Town Manager of the Town of Acton, proved to me through satisfactory evidence of identification, namely my personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose as the foregoing Town Manager of the Town of Acton, a municipal corporation.

(official signature and seal of notary)

My commission expires _____